

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4457 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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PRABHUDAS TRIBHOVANDAS DAVE

Versus

MAHENDRASING MODSING & ANR.

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Appearance:

None present for the petitioner

None present for the respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/10/96

ORAL JUDGEMENT

1. The matter was called out for hearing in the first round then in the second round and lastly in the third round but none appeared for the parties. Perused the Special Civil Application.

2. The petitioner filed H.R.P. Suit No.2456 of 1983 against the respondents in the Small Causes Court at Ahmedabad for permanent injunction restraining the respondents from dispossessing the present petitioner

without due process of law and by force, of the suit Pan-Galla. In the suit, an application Ex.5 was given for getting the interim injunction and the Trial Court was pleased to grant the injunction as prayed for on 20th July, 1983. The petitioner has come up with a case that the respondent no.1 took possession of the Pan-galla on 25th July, 1983 and committed theft of the articles lying in the galla worth of Rs.7000/-. Hence, the petitioner filed an application for Contempt of the Court's order on 1-8-1983. That application is said to be pending. The application Ex.35 has been filed by the petitioner for restoration of the possession of the suit Pan-galla. This application has been filed under sec.144 of C.P.C.. The said application was granted by the Court under the order annexure 'A' dated 3rd July, 1984. Against the said order, the revision application has been filed by the respondents before the Appellate bench of the Small Causes, Court at Ahmedabad and the said application was accepted by the order dated 26th December, 1984. Hence, this Special Civil Application by the petitioner.

3. None of the party is present before this Court to say what ultimately resulted in the civil suit. The matter was only in connection with the application filed under sec.144 of C.P.C.. I have gone through the order made by the Appellate bench of the Court of Small Causes at Ahmedabad and I do not find any illegality therein which calls for interference of this Court in this Special Civil Application. The petitioner is also not present to show what ultimately has been resulted in the Contempt application. Taking into consideration the totality of the facts of this case, I do not find it to be a case where this court should interfere with the order impugned in this Special Civil Application.

4. In the result, this Special Civil Application is dismissed. Rule discharged.

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zgs/-